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APPROVED FOR RELEASE
12/7/2015

BOARD OF SELECTMEN
STEVEN J. CORREIA
THOMAS J. FAY
JOSEPH F. NOLAN
SUSAN W. POPE
MICHAEL L. TICHNOR

Board of Selectmen Executive Session Minutes March 31, 2010

Attendance: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor

Also Present: Town Administrator F. Turkington, Secretary M. DiNapoli, Wastewater Management District Commission members David Schofield and Fred Knight, Administrative Consultant Bill Prendergast, Town Counsel Mark J. Lanza, Special Town Counsel Adam Kahn

Purpose: The session was called at 9:38 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (5-0) in open session as permitted by M.G.L. Chapter 39, Section 23B, paragraph three, to discuss strategies with respect to potential litigation regarding the wastewater treatment plant. The Board will return to open session in approximately ten minutes for the sole purpose of adjourning the meeting.

Discussion: The Board discussed the notification it received from the developer of the Town Center project that they intend to file an anticipatory breach of contract suit against the town because the current design of the wastewater treatment facility does not provide for the capacity promised. He said they have also raised the possibility of further issues, such as the calculation of user fees. The Board discussed the possibilities for diffusing the situation, or, if necessary, answering the lawsuit. A. Kahn said the town needs a plan to provide sufficient flow and get the DEP permit in a way that is orderly and doesn't destroy the town center development plans. F. Turkington said the Wastewater Management District Commission needs to review and approve the town's planned response before it is submitted to the DEP and Twenty Wayland. A. Kahn presented for discussion several talking points, including the capacity of the current plant and the need for an interim limit, the discrepancy over the calculation of the flow capacity for the proposed plant, and the possibility of increasing the capacity over time. He said there are ways to mitigate the flow issues, such as imposing stricter conservation regulations on new construction to push down actual flows, getting more accurate flow figures, and having some users build septic systems to relieve the pressure on the wastewater facility. It was the consensus of the Board and the WWMDC to finalize the draft permit language and water conservation regulations and have A. Kahn and I. Catlow confer with DEP as to anticipated acceptance. Once preliminary approval is received, Twenty Wayland would be briefed on the plan with the intent on concurring on a connection permit application to DEP. The Board and WWMDC agreed to meet on either April 26 or May 3 for an update.

Adjourn: By motion of S. Pope, seconded by T. Fay, the Board, by roll call vote, unanimously voted to exit executive session at 10:53 p.m. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.